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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,678	03/09/2004	David Kaminski	706633US1	2628

24938 7590 03/08/2005

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EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,678

Applicant(s)

KAMINSKI ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/9/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the first office action for application number 10/796,678, Vibration Isolation Support System for Vehicle Engine and Transmission, filed on March 9, 2004.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "a vibration isolation support for mounting an engine in a vehicle frame, said engine having a theoretical roll axis...." This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a vibration isolation support," the engine, vehicle frame and theoretical roll axis being only functionally recited. This presents no problem as long as the body of the claim also refers to the engine, vehicle frame, and theoretical roll axis functionally.

The problem arises when the engine and the vehicle frame are positively recited within the body of the claim, such as, "an engine bracket fixed to said engine," in line 3 of claim 1 and "a frame bracket fixed to said vehicle frame," in line 4 of claim 1. The examiner cannot be sure if applicant's intent is to claim merely the vibration isolation

support or the vibration isolation support in combination with the engine and vehicle frame.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the vibration isolation support alone or the combination of the vibration isolation support and the engine and/or the vehicle frame. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the subcombination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination.

Claim 5 recites the limitation "said frame support" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,925,972 to Sullivan. Sullivan discloses a vibration isolation support for mounting an engine in a vehicle frame, the engine having a theoretical roll axis (Col. 4, line 20ff), the vibration isolation support comprising: an engine bracket (24, 25) fixable to the engine; a frame bracket (41) fixable to the vehicle frame; an isolation (10)

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connected between the engine bracket and the frame bracket, where the isolator is radially symmetrical about a longitudinal axis, the engine bracket is fixable to the engine and the frame bracket is fixable to the frame such that a vertical plane drawn through the isolator's longitudinal axis is perpendicular to a horizontal plane drawn through the theoretical roll axis, and the isolator's longitudinal axis intersects the horizontal plane through the theoretical roll axis at an acute angle (P) that is less than or equal to 45°; where the isolator comprises elastomeric material; and where the frame bracket is connected to the frame such that the frame bracket acts as a stop for the isolator.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,349,078 to Shimada et al., hereinafter, Shimada. Shimada discloses a vibration isolation support capable of mounting an engine in a vehicle frame, the isolation support comprising: a bracket (9); a frame bracket (11); an isolator (10) connected between the bracket and the frame bracket, where the isolator is radially symmetrical about a longitudinal axis, the bracket is fixable to the engine and the frame bracket is fixable to the frame such that a vertical plane drawn through the isolator's longitudinal axis is perpendicular to a horizontal plane drawn through a theoretical roll axis (axis extending through the page, Fig.2), and the isolator's longitudinal axis intersects the horizontal plane through the theoretical roll axis at an acute angle that is less than or equal to 45°; and where the isolator comprises elastomeric material.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada in view of U.S. Patent 5,829,732 to Yamaguchi et al., hereinafter, Yamaguchi. Shimada discloses the claimed invention except for the limitation of the isolator comprising elastomeric material surrounding a metal block. Yamaguchi teaches an isolator being radially symmetrical about a longitudinal axis and having elastomeric material surrounding a metal block (6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the isolation support in Shimada to have included the isolator as taught by Yamaguchi for the purpose of increasing the vibration damping effect due to resonance.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada in view of U.S. Patent 4,817,909 to Deane. Shimada discloses the claimed invention except for the limitation of the isolator having a metal band surrounding elastomeric material. Deane teaches an isolator having a metal band (18) surrounding elastomeric material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the isolation support in Shimada to have included the isolator as taught by Deane for the purpose of providing reinforcement to the isolator to aid in the prevention of failure of the elastomeric material.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2,953,336 to Etchells

U.S. Patent 3,694,895 to Werner

U.S. Patent 3,702,178 to Schulz

U.S. Patent 3,731,896 to Fehlberg

U.S. Patent 3,903,738 to Malchow

U.S. Patent 4,116,411 to Masuda

U.S. Patent 4,660,797 to Tonnies

U.S. Patent 4,676,332 to Saito

U.S. Patent 5,507,463 to Kobylinski et al.

U.S. Patent 6,402,119 to Miska

Great Britain Publication 2,275,031 to Harding

Etchells discloses an engine mounting system. Werner discloses a method of mounting an automobile engine. Schulz discloses an engine mount assembly. Fehlberg discloses an engine mount assembly. Malchow discloses rotating machinery torque sensing arrangement. Masuda discloses a device for suspending an exhaust pipe in vehicles. Tonnies discloses a mount for an exhaust system of a motor vehicle. Saito discloses an exhaust pipe supporting structure. Kobylinski et al. disclose an ignition noise reduction system. Miska discloses a molded rubber hanger with a reinforcing belt


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made from a woven fabric. Harding discloses a mount for an engine and transmission in a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

March 2, 2005